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No. 92-760

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

JAMES P. SHANNON, et ux., et al.,

Petitioners,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION, et al.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

RESPONSE TO BRIEF IN OPPOSITION

JAMES P. SHANNON*
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December 1, 1992

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QUESTIONS PRESENTED

Previously set forth in the Petitioners' Petition for Writ of Certiorari filed with this Court.

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STATEMENT OF THE CASE

Previously set forth in the Petitioners' Petition for Writ of Certiorari filed with this Court.

ARGUMENT

The respondent, WEST ALLIS MEMORIAL HOSPITAL EMPLOYEE HEALTH PROTECTION PLAN ("PLAN")'s, Brief in Opposition fails to address or argue the Questions Presented in the petitioners' Petition for Writ of

Certiorari and instead, creates its own Question Presented. This Question is not appropriately placed before this Court and the petitioners strongly disagree with its validity. The argument that the petition should be denied because it is not from a final order is a blatant misrepresentation of the facts before this Court. The order entered by the District Court for the Eastern District of Wisconsin was final, as illustrated by the order itself, and as recognized by the Seventh Circuit Court of Appeals. The Court of Appeals went on to state: "[i]t entered a final order, and we, therefore, have jurisdiction over this appeal. 28 U.S.C. §1291" (Petition for Writ of Certiorari App. 6).

Respondent PLAN argues that there is no final judgment and relies upon two cases which do not apply to the facts of this case. This is not an interlocutory appeal, but rather, an appeal of a final order issued by the District Court of the Eastern District of Wisconsin and upheld by the Seventh Circuit Court of Appeals. (See App. 26).

REASON FOR GRANTING THE PETITION

The fact of the matter is, that no respondent has presented any case law or brief in opposition to the Petition for Writ of Certiorari. Jurisdiction is not at issue here, and the issues that have been raised by the petitioners strongly demand the need for attention and disposition by the Supreme Court of these United States. Based on the reasons outlined in our Petition, the Petition for Writ of Certiorari should be granted.

CONCLUSION

For the above reasons, and for the reasons outlined in the Petition for Writ of Certiorari, the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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